

Application No. 10/655,322

REMARKS

Claims 1-19 and 21 are pending. Claim 20 has been canceled and new claim 21 has been added. Applicants note that although the rejections are after final, Applicants have canceled one claim such that number of claims has remained the same. Claim 21 is supported by the specification, for example, at page 43, lines 29-43. No new matter is introduced by the new claim.

All of the pending claims stand rejected. Applicants note that a close review of the original claims indicated that the inventorship may have been in error. This issue was not fully resolved since in view of new claim 21, the inventorship is now correct. Applicants respectfully request reconsideration of the rejection based on the following remarks. Applicants assert that new claim 21 is clearly patentable over the cited references.

Rejection Over Horne et al. US 6,136,287

The Examiner rejected claims 1-7, 9, 11-15, 17, 19 and 20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,136,287 to Horne et al. (the Horne '287 patent). The Examiner noted that the Horne '287 patent disclosed species that fall within Applicants' claimed invention. With all due respect, Applicants assert that the Horne '287 patent is not prior art. As such, the Horne '287 patent does not render Applicants' claimed invention *prima facie* anticipated. Applicants respectfully request reconsideration of the rejection based on the following comments.

Applicants' present application claims priority back to application 09/188,768 (the '786 application) to Kumar et al. with a filing date of November 9, 1998. The Horne '287 patent has a 102(e) date of December 2, 1998. To the extent that particular claims in the present application are supported by the '768 application, the claims have a date prior to the Horne '287 patent, and the Horne '287 patent is not prior art.

Application No. 10/655,322

The present claims are well supported under 35 U.S.C. § 112 by the parent '786 application, which issued as U.S. Patent 6,607,706. For convenience, Applicants refer to column of line number of U.S. 6,607,706 to indicate support for the present claims. With respect to all of the present claims, Applicants refer to column 2, lines 26-39, column 4, lines 40-51, column 10, lines 52-59, column 11, lines 30-57, column 12, lines 52-55 (amorphous) and claim 1. Since the present claims are fully supported by the parent '768 application, they have a priority date prior to the 102(e) date of the Horne '287 patent, and the Horne '287 patent is not prior art. Since the Horne patent is simply not prior art, the Horne '287 patent does not *prima facie* anticipate the present claims

Since the Horne '287 patent is not prior art, Applicants respectfully request withdrawal of the rejection of claims 1-7, 9, 11-15, 17, 19 and 20 under 35 U.S.C. § 102(e) as being anticipated by the Horne '287 patent.

Rejection Over Horne et al. US 6,225,007

The Examiner rejected claims 1-5, 8-13, 16-18 and 20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,225,007 to Horne et al. (the Horne '007 patent). The Examiner noted that the Horne '007 patent teaches species that fall within the present claims. However, the Horne '007 patent is not prior art. The Horne '007 patent has a 102(e) date of February 5, 1999. As noted above, the present claims are fully supported under section 112 by parent application 09/188,768. Thus, the present claims have a priority date of November 9, 1998. Therefore, the Horne '007 patent is not prior art. Since the Horne '007 patent is not prior art, the Horne '007 does not *prima facie* anticipate Applicants' claimed invention. Since the Horne '007 patent does not *prima facie* anticipate Applicants' claimed invention, Applicants respectfully request withdrawal of the rejection of claims 1-5, 8-13, 16-18 and 20 under 35 U.S.C. § 102(e) as being anticipated by the Horne '007 patent.

Application No. 10/655,322

CONCLUSIONS

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



Peter S. Dardi, Ph.D.
Registration No. 39,650

Customer No. 24113
Patterson, Thuent, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (404) 949-5730